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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,641	02/21/2002	Andreas N. Dorsel	10971150-2	9857

7590 11/12/2003
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
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EXAMINER

WILDER, CYNTHIA B

ART UNIT	PAPER NUMBER
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1637

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/080,641	DORSEL ET AL.	
	Examiner	Art Unit	
	Cynthia B. Wilder, Ph.D.	1637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-27 and 32-42 is/are pending in the application.
- 4a) Of the above claim(s) 24-27 and 39-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7/30/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II, claims 32-38 submitted on June 26, 2003 is acknowledged. Claims 1-22 and 28-31 have been canceled. Claims 24-27 and 39-42 have been have been withdrawn from consideration as being drawn to a non-elected invention. Claims 32-38 are discussed below.

Claim Objections

2. Claim 38 is objected to because of the following informalities:

(a) Claim 38 is objected to because the claims have two consecutive step (a)s. It is suggested changing step "(a)" before "a detector.." to step --(b)-- and changing step "(b)" before "a processor.." to step--(c)--. Appropriate correction is required.

Claim Rejections - 35 USC § 102(b)

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 32-33, 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Dorsel et al. (US 5,837,475, November 17, 1998). Regarding claims 32, Dorsel et al. teach an apparatus comprising (a) a detector system which has at least one optical axes (optical system) so as to detect emitted light wavelength at respective different detection angels with an optical axis align

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at each detection angle; and a processor which receives signals from the detector system and correlates the received signals with respective array features (col. 2, line 56 to col. 3, line 51; see also col. 6, lines 13-46). Note** The specification provides an example of the detector on page 15, lines 22, as a photo-multiplier tube (PMT) or a CCD or an avalanche photodiode or CMOS array. The reference teaches the detector as a PMT or CCD device.

Regarding claim 33, Dorsel et al teach the apparatus according to claim 32, additionally comprising a light source to provide an interrogating light in response to which the features emit the light of different wavelengths (col. 2, line 56 to col. 3, line 26).

Regarding claim 37, Dorsel et al. teach the apparatus according to claim 33, wherein the light source produces a spot of light at the array, the apparatus additionally comprising a scanning system which scans the interrogating light spot across the array (col. 2, line 56 to col. 3, line 38). Therefore, Dorsel et al. meets the limitations of claims 32-33 and 37 of the instant invention.

Claim Rejections - 35 USC § 102(e)

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 32-38 are rejected under 35 U.S.C. 102(c) as being anticipated by Dorsel et al.

(6,406,849 B1, filing date October 29, 1999).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 32-33, Dorsel et al. teach an apparatus comprising; (a) a detector system which has one or more optical axes so as to detect different emitted light wavelength at respective different detection angles with an optical axis aligned at each detection angle; and (b) a processor which receives signals from the detector system and correlates the received signals with respective array features. The reference further teaches wherein the apparatus further comprises a light source to provide an interrogating light in response to which the features emit the light of different wavelengths (col. 2, line 66 to col. 3, line 60 and col. 7, line 50 to col. 6, line 47).

Regarding claim 34, Dorsel et al teach the apparatus of claim 32, wherein the detector system comprises at least one detector with an optical axis which can be moved to align with different detection angles (col. 7, line 50 to col. 8, line 10).

Regarding claim 35, Dorsel et al teach the apparatus of claim 32, wherein the detector system comprises multiple detectors positioned at the corresponding multiple different detection angles (col. 7, line 50 to col. 8, line 10).

Regarding claim 36, Dorsel et al teach the apparatus of claim 32, additionally comprising a reader to read a code carried by array unit, and a processor which causes the detect system to detect emitted light at a detection angle based on the read code (col. 8, line 30-42).

Regarding claim 37, Dorsel et al teach the apparatus of claim 32, wherein the light source produces a spot of light at the array, the apparatus additionally comprising a scanning system which scans the interrogating light spot across the array (col. 8, lines 11-29).

Regarding claim 38, Dorsel et al teach the apparatus comprising: (a) a housing (seat) (col. 11, lines 38-63); (b) a detector system (col. 7, line 50 to col. 8, line 10) and (c) a processor which receives signal from the detector system and correlates the received signals with respective array features (col. 8, lines 30-52). Therefore, Dorsel et al. meets all of the limitations of the claimed inventions of claims 32-38.

Conclusion

7. No claims are allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia B. Wilder, Ph.D. whose telephone number is (703) 305-1680. The examiner can normally be reached on Monday through Thursday from 9:30 am to 6:30 pm and on Friday from 9:30 am to 1:30 pm.

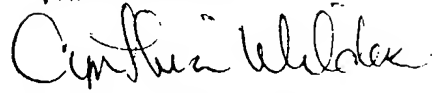
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (703) 308-1119. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0196.

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CYNTHIA WILDER
PATENT EXAMINER



Cynthia B. Wilder, Ph.D.
Art Unit 1637

October 7, 2003